



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
Two Gateway Center  
Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN )  
ORDER AUTHORIZING BROADVIEW NET- )  
WORKS, INC. TO PROVIDE LOCAL EXCHANGE )  
AND INTEREXCHANGE TELECOMMUNICATIONS) )  
SERVICES THROUGHOUT THE STATE OF NEW )  
JERSEY )

ORDER OF APPROVAL

DOCKET NO. TE99120912

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated December 15, 1999, Broadview Networks, Inc. (Petitioner or Broadview) filed a petition with the Board of Public Utilities (Board) requesting authority to provide facilities-based local exchange and interexchange telecommunications services in the State of New Jersey, Petition at 1. Petitioner has also responded on July 27, 2000 to a staff questionnaire and to Staff interrogatories by letter dated August 1, 2000. Accompanying its petition Broadview filed a motion which stated that its financial information contained in Exhibit D to the petition is highly proprietary and confidential and moved to have it protected from public disclosure. Id. at 6; Motion for Protective Order.

According to the petition, Broadview was incorporated under the laws of the State of New York on June 5, 1991, as Briar Joy Development Corporation. The name was changed several times with the current name Broadview Networks, Inc. adopted by an amendment to Broadview's Certificate of Incorporation dated October 6, 1999, Id. at Exhibit A. Petitioner submitted copies of its Articles of Incorporation, Certificate of Good Standing and its New Jersey authority to

operate as a foreign corporation. Petitioner's principle offices are located at 45-18 Court Square, Suite 403, Long Island City, New York 11101. Id. at 3 Ibid.

According to the petition, Broadview was formed to provide local exchange and interexchange services. Id. at 1. Petitioner advised that Broadview is currently certified to provide local exchange telecommunications services in Massachusetts, New York, Pennsylvania, Rhode Island, New Hampshire and Texas. Id. at 5; letter dated July 26, 2000. In addition, Petitioner is providing interexchange services in Massachusetts, New York, Rhode Island, Michigan, Illinois, Virginia, and Texas. Broadview has not been denied authority to provide telecommunications services in any State. In addition Broadview has no pending civil, criminal or administrative action against it. Questionnaire at 3.

Petitioner has a pending interconnection agreement with Bell Atlantic-New Jersey, Inc. In its petition and July 27, 2000 Questionnaire response, Petitioner advised that it seeks authority to provide initially local exchange and interexchange services to customers throughout New Jersey.

Petitioner requested waivers of rules requiring the keeping of books and records in New Jersey and the maintenance of these records according to the Uniform System of Accounts (USOA). Id. at 6. Petitioner wishes to maintain its books and records at its principle offices at 45-18 Court Square, Suite 403, Long Island City, New York 11101, and to keep those books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner maintains that keeping its books and records in New Jersey and according to the USOA would be unduly burdensome. Petitioner has agreed to provide to the Board, in New Jersey, any books and records desired and reimburse the Board for any expenses accrued in viewing them. Ibid.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Id. at 7. Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will facilitate economic development in the State of New Jersey. Id. at 8.

With regard to its technical and managerial qualifications, Broadview stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Id. at 5. Petitioner submitted the biographies of its key personnel which, according to Petitioner, are well qualified to execute its business plans, having extensive managerial and technical experience in the telecommunications industry. Id. at 5; Exhibit C.

Petitioner stated that it has access to the financial capital necessary to conduct the telecommunications operations of the requested services. Id. at 5. Broadview submitted the consolidated financial statements of Broadview Networks Holdings, Inc., of which it is a wholly-owned subsidiary. Id. at Exhibit D. Broadview asserted that it has access to the substantial financial resources of its parent, and therefore is financially well-qualified under New Jersey law. Id. at 5-6. In its petition and motion, Petitioner asserted that the Exhibit D information is extremely sensitive and strategic information that could be used by competitors to determine Broadview's financial capacity, and therefore disclosure would result in an unfair competitive advantage. Motion at 1. Petitioner also stated that it has used its best efforts to keep and maintain such information confidential and due to the sensitive nature of this information has requested that Board to limit access to such information.

## DISCUSSION

On February 8, 1996, the federal Telecommunications act of 1996, P.L., 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers in competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Broadview's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariff and submission of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief, from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records,

the Board APPROVES Petitioner's request for the exemption from maintaining its books and records in New Jersey and under the USOA.

With regard to Petitioner's financial information as submitted in its Petition, the Board FINDS that the Petitioner has shown good cause, pursuant to N.J.A.C. 1:1-14.1, that this information merits protection from disclosure in order to prevent competitive harm to the Petitioner. Therefore, the Board DIRECTS that the financial information contained in the Petition be kept under seal.

DATED: 8/12/00

BOARD OF PUBLIC UTILITIES  
BY:

(signed)  
HERBERT H. TATE  
PRESIDENT

(signed)  
CARMEN J. ARMENTI  
COMMISSIONER

(signed)  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)  
FRANCES L. SMITH  
SECRETARY

